

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

FILED
JAMES BONINI
CLERK

2004 SEP -1 AM 9:33

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
WESTERN DIV. DAYTON

IN RE SOCIAL SECURITY APPEALS

THIRD AMENDED MAGISTRATE JUDGES' GENERAL ORDER NO. 11

To provide for the efficient adjudication of appeals to this Court of decisions of the Commissioner of Social Security under the Social Security Act, it is hereby ORDERED with respect to all such appeals:

1. All prior general Orders of the United States Magistrate Judges at Dayton with respect to Social Security cases are hereby rescinded.
2. The Commissioner shall file and serve an Answer and a certified copy of the administrative record within sixty (60) days of service of process.
3. Within sixty (60) days of service of the Answer and certified copy of the administrative record, the plaintiff shall file and serve a Statement of Specific Errors upon which the plaintiff seeks reversal or remand. This Statement shall be organized in the form of a memorandum in support of the plaintiff's position and shall also include page references to the administrative record as well as citations of applicable law and supporting authority. Statements of Specific Errors shall present the detail ordinarily expected in a motion for summary judgment.
4. Within forty-five (45) days of service of the Statement of Errors, the Commissioner shall file and serve a memorandum in opposition to the plaintiff's Statement of Specific Errors. This memorandum in opposition shall be organized in the form of a memorandum in opposition to the plaintiff's position and in support of the Commissioner's decision and shall also

include page references to the administrative record as well as citations of applicable law and supporting authority.

5. Plaintiff may file and serve a reply memorandum within twenty (20) days of service of the Commissioner's memorandum in opposition.

6. All cases will be decided on the memoranda and the administrative record, except that the Court reserves the right to hold oral argument, by telephone or otherwise, in any such case.

7. In cases decided by the Magistrate Judge upon consent under 28 U.S.C. §636(c), appeals shall be taken as provided by law. In cases in which the Magistrate Judge makes a Report and Recommendations to a District Judge on the merits of the appeal, the time for filing Objections is the ten (10) day period provided by 28 U.S.C. §636(b), Fed.R.Civ.P. 72 and all other applicable provisions of law.

8. The practice of seeking lengthy (*e.g.*, 30 day) extensions of time to file and serve Statements of Specific Errors or Objections on conclusory grounds (*e.g.*, "heavy caseload") is strongly discouraged. Repeated requests of this nature may lead to sanctions. The Code of Professional Responsibility counsels attorneys not to accept more work than they can reasonably handle.

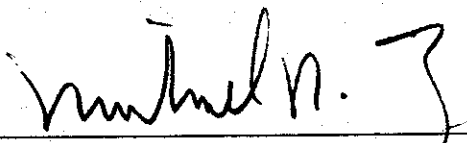
9. When a case is remanded to the Commissioner for further proceedings and those proceedings are completed, if the Commissioner's new decision is adverse to the plaintiff, the Commissioner shall file and serve a copy of the supplemental administrative record. The matter shall then be briefed in accordance with this General Order: the plaintiff will have sixty (60) days from the date of service of the supplemental administrative record within which to file a Statement of Specific Errors in the form described above; the Commissioner will have forty-five (45) days from the date of service of the Statement of Specific Errors within which to file and serve a

memorandum in opposition in the form described above; and the plaintiff will have twenty (20) days from the date of service of the Commissioner's memorandum within which to file and serve a reply memorandum.

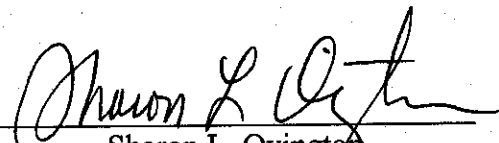
10. When a case is remanded to the Commissioner for further proceedings and those proceedings are completed, if the plaintiff accepts the Commissioner's new decision, within ten (10) days of receipt of the Commissioner's new decision, plaintiff's counsel shall notify the chambers of the Magistrate Judge to whom the case is assigned that the plaintiff accepts the Commissioner's new decision and that the plaintiff does not seek further judicial review.

11. This Order is effective immediately and applies to cases currently pending before the Court.

September 1, 2004



Michael R. Merz
United States Magistrate Judge



Sharon L. Ovington
United States Magistrate Judge